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MAIL DATE  
4/14/97

Decision 97-04-051      April 9, 1997

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

LORNA HUARD,

Complainant,

v.

SOUTHERN CALIFORNIA EDISON COMPANY,

Defendant.

Case No. 95-07-032  
(Filed 7/11/1995)

**ORIGINAL**

ORDER DENYING REHEARING OF DECISION NO. 96-11-042

After reviewing the application for rehearing of Lorna Huard (Applicant), and each matter presented therein, the Commission finds no legal error in D.96-11-042 requiring rehearing. The decision denying the complaint of Applicant against Southern California Edison Company (Edison) is therefore affirmed, and the application for rehearing denied.

**BACKGROUND**

In D.96-11-042, we denied the complaint of Applicant which alleged that for 21 years Edison's meter had inaccurately measured her usage of electricity. Applicant's complaint also stated that although "over the years" she requested the meter be tested, Edison did not do so until July 1992 when it replaced the meter. The complaint further stated that for the three years following the replacement of the meter, up to the filing of the complaint, Applicant's metered usage declined by approximately half compared to that of prior years.

Our decision denying the complaint rested on the credibility of Edison's witnesses and their meter test results which showed the meter complained of was operating within the limits of accuracy required by Edison's Commission-approved tariff.

In the application for rehearing, Applicant argues that certain material facts were ignored in our decision, and contends that certain findings of fact that were made were not based on the record.

Edison filed a response to the application on January 27, 1997. Edison contends that the application only reargues issues already considered.

#### STANDARD OF REVIEW

Cal. Pub. Util. Code Section 1732 requires that an application for rehearing specifically set forth grounds on which the applicant considers the Commission's decision unlawful.<sup>1</sup> Consistent with the requirements of Sections 1705 and 1757, therefore, in responding to the present application we have considered whether D.96-11-042 makes all material findings of fact necessary to reasonably conclude that the complaint should be denied.

#### DISCUSSION

The decision to deny Applicant's complaint in D.96-11-042 rested on the following Findings of Fact:

1. Complainant requests a \$49,000 refund representing half of her electrical energy charges for the 21 years that the meter in question was in service.
2. The meter was tested three times with all tests indicating accuracy within the allowable tolerances approved by the Commission.
3. An inaccurate meter would not test accurately during meter tests.

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1. Unless otherwise indicated, all subsequent references to code sections shall be to the California Public Utilities Code.

4. A meter of the type installed at Huard's house has never been found by Edison's Field Service Supervisor to be registering fast beyond allowable tolerances.

5. Huard's appliance load is capable of the usages recorded and billed.

6. The usage habits of Huard's neighbors have no bearing on the accuracy of her metered usage and billings.

7. Huard reduced her consumption of electrical energy after the meter was changed.

Finding of Fact No. 7

In the application for rehearing, Applicant challenges the basis for Finding of Fact No.7, regarding her consumption of electricity after the meter was changed. Application for Rehearing, p. 5. During the hearing, Applicant introduced documentary evidence of Edison billings for several years before and after the meter was replaced in July 1992. These records show the metered usage declined by approximately half after July 1992 compared to prior years. The records were received in evidence as Exhibit 2.

As we have noted in prior decisions in meter complaint cases, the evidentiary record in this type of case often fails to show precisely what occurred in the customer's household to account for a marked change in electrical energy usage as measured by the meter.<sup>2</sup> Such direct evidence is lacking here

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2. See, e.g., D.83-07-006, Balbi v Pacific Gas and Electric Company (1983) 12 CPUC2d 19, 20 - "While neither party to this dispute could reasonably account for the two months of high gas bills charged to complainant, the evidence is clear that the meter on the premises was accurate and that no additional load other than complainant's appliances were on his gas line." See also D.91-05-008, Selby condominium Fund v. Southern California Gas Company (1991) 40 CPUC 2d 18 - "While the high bills remain unexplained, there is insufficient evidence to find that the billed gas was not consumed by complainant's gas appliance."

as well. Although Applicant contends nothing changed in the household after the meter was replaced, that contention is conclusory and is not supported by testimony of specific conditions in the household that show nothing changed.

On the other hand, because Edison offered evidence of meter tests which showed that the meter complained of was operating within prescribed accuracy limits, and also presented credible testimony that the appliances in the household were capable of the high usage complained of before the meter was replaced, the evidentiary record provides a rational basis to find the meter was accurate in registering Applicant's household usage of electrical energy. Therefore, Finding of Fact No. 7 is logically consistent with the findings regarding Edison's meter test results.

Moreover, even if we were to delete Finding of Fact No. 7, as suggested by Applicant, we would still have sufficient evidence from Edison's testimony to determine the meter operated accurately and therefore recorded Applicant's usage accurately. Edison's meter expert testified during the hearing that the meter complained of tested for accuracy just before it was replaced. Tr. 71:20-28 to Tr. 75:1-19. We made material findings of fact on that evidence in Findings of Fact Nos. 2, 3, and 4.<sup>3</sup> We also found, based on evidence offered by Edison, that their inspection of Applicant's appliances showed that they were capable of the high electrical energy usage measured by the meter before it was replaced. Tr. 13:25-28 to Tr. 14:1-2. Finding of Fact No. 5. These findings were sufficient to reasonably determine that there was no basis to conclude that the electrical energy metered and billed to complainant by Edison was inaccurate, as we did in Conclusion of Law No. 1 of D.96-11-042.

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3. Another Edison witness testified that when he installed both the original meter and a replacement meter at Applicant's home, they registered the same usage. Tr. 18:16-23.

Finding of Fact No.6

Applicant also argues that Finding of Fact No. 6 is unreasonable in that it finds the data of electricity usage by her neighbors to be irrelevant. Application for Rehearing, pp. 3-4. Exhibits 7 and 8 of the record include anonymous Edison billing records for eleven of Applicant's neighbors. Applicant points out in her application that this data is discussed in D.96-11-042 at pp. 4-5. Applicant also contends that the information not only shows a range of metered usage among the neighbors, but also shows no usage as consistently high as hers before Edison replaced her meter.

The discussion in the decision includes a brief review of the usage records of the neighboring households in comparison with Applicant's recorded usage. Finding of Fact No. 6 reflects this discussion and states the data on the neighbors' usage has "no bearing on the accuracy of Applicant's metered usage and billings." This finding means, essentially, that a neighbor's metered usage does not directly show that Applicant's meter operated inaccurately, particularly in light of the meter test results presented by Edison. And again, even if Finding of Fact No. 6 were deleted, the other findings made in Findings of Fact Nos. 2-5 regarding Edison's test results are sufficient to reasonably conclude the usage of electrical energy at Applicant's residence was accurately metered and billed.

**CONCLUSION**

We find no legal error in D.96-11-042. Edison's meter tests, and Edison's testimony that these tests showed the meter in question operated within the prescribed range of accuracy, were dispositive in this case and are sufficient to provide the rational basis for denying the complaint.

IT IS THEREFORE ORDERED that:

1. Rehearing of D.96-11-042 is denied.
2. This order is effective today.

Dated April 9, 1997, at San Francisco, California.

P. GREGORY CONLÓN  
President  
JESSIE J. KNIGHT, JR.  
HENRY M. DUQUE  
JOSIAH L. NEEPER  
RICHARD A. BILAS  
Commissioners